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C O N F I D E N T I A L SECTION 01 OF 02 KUWAIT 000673

SIPDIS

STATE FOR NEA/ARP AND EB
STATE PASS USTR FOR JBUNTIN
USDOC FOR 4520/ITA/MAC/ONE/DGUGLIELMI

E.O. 12958: DECL: 02/23/2013
TAGS: ECIN ECON KU
SUBJECT: GOK FOOT DRAGGING ON CUSTOMS LAW

REF: A. RIYADH 0130

¶B. KUWAIT 5543

¶1. (C) SUMMARY AND COMMENT. Common with Riyadh (Ref A), yet contrary to earlier assertions by Kuwaiti officials (Ref B), the GCC Customs Union that began ostensibly on January 1, 2003, remains for Kuwait a union in name only. While the GOK has enacted a common external tariff, as stipulated by the Customs Union, it has yet to pass a new customs law and continues to charge its standard 4 percent base rate on many goods entering the country, in addition to the 5 percent common tariff imposed on imports at the point of entry into the GCC. One GOK official pointed out that "legally, Kuwait is not really in" the Customs Union, while another official admitted that "since January 1, nothing has changed." As to when Kuwait will pass a new customs law and officially join the Union, given the typical pace of change in the country, "Allahu alam" (God only knows). END SUMMARY.

¶2. (U) Information for this cable, the second in a series tracking Kuwait's involvement in the Customs Union, was compiled from a variety of sources. EconOff met with Mashaan Alsiady, a Land Port Supervisor at Kuwait's General Administration of Customs; Mona Essa Al-Qallaf, Head of the Kuwait Customs Legal Office; Ghazi Faisal Al-AbdulJalil, Head of Gulf Cooperation Affairs in Kuwait's Ministry of Finance; and James Piatt, the U.S. Customs Office representative in Kuwait.

¶3. (C) DOUBLE-DIPPING: As part of its membership in the GCC Customs Union launched January 1, 2003, the GOK agreed to impose an across-the-board tariff of 5 percent on most imports. According to Customs officials, however, as of February Kuwait continued to impose the 4 percent base rate in effect prior to the Customs Union on products entering by land, in addition to the 5 percent tariff levied at the point of entry into the GCC. As the GOK officials explained, merchants shipping goods to Kuwait through Saudi Arabia must pay twice -- 5 percent at the point of entry and another 4 percent at the Saudi-Kuwaiti border.

¶4. (SBU) The Customs officials said that most merchants are aware of this issue and try to avoid the second charge by explaining their situation at the border. When this fails, exporters are forced to recover their losses, either by charging higher prices, or by passing the additional fees onto the importer. Importers can use a "drawback system" to try and recoup their losses, but often with much inconvenience and uncertainty. In the example given, an importer would file with the Saudi Government to recover the 5 percent fee, a procedure that takes time and involves administrative hoop-jumping, with no guarantee of success.

¶5. (SBU) The Customs officials added that many shipments are still being inspected twice -- once upon entry into the GCC and again upon entry into Kuwait. The Customs Union was intended to eliminate such duplication of efforts. As one GOK official admitted, "Since January 1, nothing has changed. The Customs Union has little impact at all in Kuwait." When pressed, the official said that starting February 1 factories with products from the Gulf no longer needed to register with the GCC Secretariat, as before, but otherwise there was no difference.

¶6. (C) LAW, WHAT LAW? The reason Kuwait can impose the additional fee is that the Customs Law issued by the GCC Council has never been passed by the GOK. Kuwait is the lone GCC member not to formally agree on the legal side of the Customs Union. Kuwait's National Assembly still must approve the draft law, then forward it to the Cabinet of Ministers for a second approval, before it reaches the Amir to be passed into law. Until this happens, Kuwait will continue to operate as it did prior to the official launch of the GCC Customs Union, according to the Head of the Kuwait Customs Legal Office, who added that "legally, Kuwait is not really in" the Customs Union.

¶7. (SBU) The GCC Customs Law is the same for all GCC countries. Kuwait's Amir has agreed to the law in principle, but the law has not been formally passed. Kuwait's Cabinet of Ministers can apply the law, even before its formal

ratification, but according the Customs officials this application has not yet occurred. The law was to have been passed in April 2002, well ahead of the official launch, but the National Assembly said it needed more time to consider recommendations. The draft law has since floundered in the National Assembly, pushed aside by other matters deemed more important.

¶8. (SBU) In January 2003, Director General of the Customs Office Ibrahim Al-Ghanim met with the National Assembly's Finance Committee to discuss details of the customs law, in an effort to move it forward in the wake of the new Customs Union. Al-Ghanim held a second meeting later that month with legal experts to explain technical aspects of the law. A draft was issued, but according to Al-Ghanim the unified GCC Customs Law has not been implemented because the National Assembly has failed to make a formal decision.

¶9. (C) In early January, Minister of Finance, Planning and Development Dr. Yousef Al-Ibrahim pressed National Assembly Speaker Jassem Al-Khorafi to place this issue before the National Assembly, but again to no avail. According to Ministry of Finance official AbdulJalil, there is no telling when the law will be passed. He said the GOK told the GCC Secretariat it would do so no later than April, but this

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deadline was offered to appease the GCC and does not apply to the National Assembly. Given present regional concerns, new National Assembly elections planned for some time later this year, and the torrid summer that routinely drives most Kuwaitis out of the country, the law may have to wait until fall, AbdulJalil said.

¶10. (SBU) INTERIM SOLUTIONS: With this in mind, Al-Ghanim sent a letter to the head of Saudi Customs in January asking if products entering Kuwait could be treated as "transit" and not incur the initial 5 percent tariff. Under this system, products entering Saudi Arabia from outside the GCC on their way to Kuwait would only be charged once, when crossing into Kuwait, yet imports originating within the GCC might still incur two tariffs. For example, if a car bought in the United States was shipped to Kuwait through Qatar, it would be charged the 5 percent unified tariff upon arrival, could then pass free of charge through Saudi Arabia as "transit," only to be charged another 4 percent tariff when entering Kuwait. While the Saudis reportedly agreed to this scheme, the arrangement continues to cause confusion between merchants and officials.

¶11. (SBU) Another problem presented by the fledgling Customs Union is that Kuwait remains the only GCC country without a compatible computer system for its customs operations. For now, the GOK is filling in computer forms by hand or using manual forms, which could cause problems with year end accounting reports. Technical specialists have been visiting other GCC countries to examine their systems, and Kuwait hopes to have its own system in place by the end of summer.

¶12. (SBU) On a more positive note, the GOK is encouraged by a new hotline system that enables border officials to call each other and GCC directors to work out problems as they arise. The Customs officers said that so far there have not been any major disputes, and this system has provided a good exchange of information and opportunities for the border workers to learn from each other.

¶13. (C) COMMENT: The GOK, in its public pronouncements, continues to declare that the new Customs Union is marching along in Kuwait, whereas those on the ground realize it is stumbling awkwardly at best. Confusion and misunderstanding exist at all levels, from members of the National Assembly to border officers and merchants doing business in the country. Lack of a new customs law signals lack of commitment on the part of the GOK. And while some government officials at least seem cognizant of the problems, like so many issues in Kuwait change will have to wait until "bukra inshallah" (tomorrow, should God will it).
JONES